

**41-6a-1717. Smoking in a vehicle prohibited when child is present --**

**Penalty -- Enforcement.**

(1) As used in this section, "smoking" has the same meaning as defined in Section 26-38-2.

(2) (a) Except as provided in Subsection (2)(b), smoking is prohibited in a motor vehicle if a child who is 15 years of age or younger is a passenger in the vehicle.

(b) A person may smoke in a motor vehicle while a child who is 15 years of age or younger is a passenger in the vehicle if the person:

(i) is operating a convertible or open-body type motor vehicle; and

(ii) the roof on the convertible or open-body type motor vehicle is in the open-air mode.

(3) A person who violates this section is guilty of an infraction and is subject to a maximum fine of \$45.

(4) Until July 1, 2014, a peace officer may not issue a citation to an individual for a violation of this section but shall issue the individual a warning informing the individual that smoking is prohibited in a motor vehicle if a child who is 15 years of age or younger is a passenger in the vehicle.

(5) The court may suspend the fine for a violation of this section if:

(a) the person has not previously been convicted of a violation of this section; and

(b) the person proves to the court that the person has enrolled in a smoking cessation program.

(6) Enforcement of this section by a state or local law enforcement officer shall be only as a secondary action when the vehicle has been detained for a suspected violation by any person in the vehicle of Title 41, Motor Vehicles, other than this section, or for another offense.

(7) A violation of this section may not be used as a basis for or evidence of child abuse or neglect.

Enacted by Chapter 251, 2013 General Session